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**TRIAL — VERDICTS — AFFIDAVITS OF JURORS TO SHOW "CHANCE" VERDICTS.** — An affidavit of nine jurors stated the following: The nine jurors were for the plaintiff and the others for the defendant. Differing on a proposition of law, they all agreed to ask for an additional instruction and to give their verdict according to the instruction. The instruction was favorable to the defendant, and a verdict was given for him. The nine would not have consented to this verdict but for the agreement. *Held*, that the affidavit may be received and that the verdict is invalid. *Garden v. Moore*, 156 N. W. 410 (Ia.).

Where it is shown that the jurors made and acted on an agreement to determine by chance the verdict or its amount, the verdict will be set aside. *Houk v. Allen*, 126 Ind. 568, 25 N. E. 897; *Merseve v. Shine*, 37 Ia. 253; *City of Ottawa v. Gilliland*, 63 Kan. 165, 65 Pac. 252. The objections to "chance" verdicts are that the agreement made bears no relation to the merits, and that the jurors feel precluded by the agreement from further consideration of the case. Where the jurors are divided because they differ as to a point of law, if they agree to follow, and do follow, the judge's instruction on this point, only the second objection would apply. This objection in itself, it is submitted, is not a sufficient reason for the court to assume the danger incident to disturbing the verdict. But if, as the court assumed in the principal case, the agreement of the jurors is to follow an instruction irrelevant to their disagreement, the verdict is a true "chance" verdict. In most states, in the absence of a statute, affidavits of jurors are not admissible to show their own misconduct in rendering a verdict. *McDonald, etc. v. Pless*, 238 U. S. 264; *Birmingham, etc. Co. v. Moore*, 148 Ala. 115, 130, 42 So. 1024, 1029; *Hull v. Larson*, 14 Ariz. 492, 131 Pac. 668. Such statutes, however, are not infrequent in the case of quotient verdicts, while some states, including Iowa, have obtained the same result by decision. *Wright v. The Illinois, etc. Tel. Co.*, 20 Ia. 195; *Elledge v. Todd*, 1 Humph. (Tenn.) 43. See DEERING, CODE CIV. PROC. CAL., § 657; REM. & BAL. CODE (Wash.), § 399.

**TRUSTS — RIGHTS AND LIABILITIES OF THIRD PARTIES — RECOVERY AGAINST TRUST ESTATES FOR SERVICES RENDERED THE TRUSTEE.** — The beneficiaries of a trust estate brought a bill in equity for the removal of the trustee. The trustee, as such, engaged an attorney who successfully defended him. The attorney now seeks to recover for his services in an action against the trustee in his representative capacity. *Held*, that he cannot recover. *Jessup v. Smith*, 170 N. Y. App. Div. 605.

Except as expressly authorized by the instrument creating the trust, a trustee cannot give third persons with notice direct rights against the trust estate. See 2 PERRY ON TRUSTS, § 815 (b). However, in an accounting between the trustee and the *cestui que trust*, exoneration may be given the trustee for liabilities incurred under contracts which were proper, though not authorized. This right to exoneration, being an equitable asset of the trustee, may be reached by a bill against the trustee and *cestui que trust*. *Fairland v. Percy*, L. R. 3 P. & D. 217; *Laible v. Ferry*, 32 N. J. Eq. 791. See *Merchants' Nat. Bank v. Weeks*, 53 Vt. 115. But such remedy is secondary, and contingent upon the failure of the creditor's primary right against the trustee as an individual; for the adjudication of rights between the trustee and *cestui que trust* should come in their regular accounting, and not at the behest of any creditor. See L. D. Brandeis, "Liability of Trust Estates on Contracts made for their Benefit," 15 AM. L. REV. 449, 457. A few cases hold that there is a direct right against the trust estate founded on unjust enrichment, when the trustee is insolvent and the derivative right through him is valueless because of claims of the estate against him. *Manderson's Appeal*, 113 Pa. St. 631, 6 Atl. 893; *Courier-Journal Job Printing Co. v. Columbia Fire Ins. Co.*, 54 S. W. 666 (Ky.). See A. W. Scott, "Liabilities in the Administration of Trusts," 28 HARV. L. REV. 725, 740. In